IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

TUESDAY, THE 20TH NOVEMBER 2007 / 29TH KARTHIKA 1929

WP(C).No. 31674 of 2007(U)

PETITIONER:

BASHEER, S/O DAVOOD,
AGED 40 YEARS, KUNNUMMAL VEEDU,
P.O.VELLALASSERY, CHOLLOOR AMSOM DESOM,
KOZHIKODE TALUK.

BY ADV. SRI.R.SUDHISH
SMT.M.MANJU

RESPONDENT:

THE DISTRICT COLLECTOR,
MALAPPURAM DISTRICT.

BY GOVERNMENT PLEADER SRI.I.V.PRAMOD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 15/11/2007, THE COURT ON 20/11/2007 DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.
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W.P.(C) NO. 31674 OF 2007 U
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Dated this the 20th day of November, 2007

J U D G M E N T

Ext.P1 order of the respondent is under challenge.

2. The proceedings were initiated against the petitioner following the seizure of his vehicle on the allegation that it was engaged in unauthorised transportation of river sand. By the impugned order, petitioner is ordered to remit Rs.2,50,000/- as being the value of the vehicle and a fine of Rs.25,000/- towards the River Management Fund for release of the vehicle.

3. The finding in Ext.P1 on the basis of which the petitioner has been penalised is as follows:

In view of the contentions raised, I had called for the files and the seizure mahazar dated 26/5/07 has been perused. What

is stated in the seizure mahazar is as follows:

A comparison of what is stated in the impugned order and what is stated in the seizure mahazar shows that they are materially different. If that be so, Ext.P1 discloses non application of mind by the respondent.

4. That apart, it is the petitioner's specific contention that copy of the seizure mahazar was not given to him although it is mandatory in terms of the provisions of the Act. This also is a matter for the respondent to consider. In view of the contradiction in what is stated in the impugned order and what is stated in the seizure mahazar, I quash Ext.P1 order and remit the matter back to the respondent to reconsider the same with notice to the petitioner. If seizure mahazar has not been served on the petitioner, that shall also be arranged to be served.

Thereafter petitioner shall be given notice and an opportunity of hearing before final orders are passed.

5. In the meantime, it will be open to the petitioner to make an application to the respondent for interim custody, in which case, the respondent shall consider the same, subject to imposition of appropriate conditions.

6. Final orders shall be passed, as expeditiously as possible, at any rate, within two weeks of receipt of a copy of this judgment.

Writ petition is disposed of as above.

ANTONY DOMINIC, JUDGE

Rp